IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24632 of 2004

Between:

M/s G.R.Constructions Engineers & Contractors, Opp.Coromandel Gate, Visakhapatnam –11, Rep.by its Proprietor K.Gangadhara Rao.

..... PETITIONER

AND

1 The chief Engineer (R &B) Roads, Erramanzil, Hyderabad.
2 The Superintending Engineer R &B Circle, Seetammadhara Visakhapatnam.
3 ThePay & Accounts Officer YRC Wing,Maharanipet, Visakhapatnam-1

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in recovering the seigniorage charges on ordinary earth from the work bills of the petitioner in respect of (1) Agreement No.10/2001-2002 (2) Agreement No.43/2002-2003 and (3) Agreement No.51/2002-2003 entered into with the 2nd respondent, as illegal, arbitrary and without authority of law and consequently direct the respondents to repay the amount recovered towards seigniorage charges on ordinary earth from the bills of the petitioner under the above said agreements forthwith,

Counsel for the Petitioner: MR.N.SIVA REDDY

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24632 of 2004

ORDER:

The petitioner has been awarded the contract work of laying and special repairs of road in Visakhapatnam District. He entered into the agreement Nos.1) 10/2001-2002,

2) 43/2002-2003 and 3) 51/2002-2003 with the 2nd respondent. The works were estimated at the rate of Rs.1,29,49,381/-. While making payment of the bill to the petitioner, the respondents deducted seigniorage charges on the ordinary earth.

2. The contention of the petitioner is that there is no condition in the agreement for deduction of seigniorage charges on ordinary earth. Therefore, the petitioner claims that the action of the respondents in deducting the said amount is illegal. He challenged the same in this writ petition.

3. The learned counsel for the petitioner brought to the notice of this Court a Judgment of the Division Bench of this Court, in W.P.No.2054 of 2004, wherein a Division Bench passed the following Order:

> "Following the said view, we allow the writ petition directing the respondents not to collect any seigniorage charges from the petitioner for digging ordinary earth in respect of execution of contract work covered under the agreement, No costs. However, we make it clear that if the tax is included in the estimate on the earthwork component, it can be deducted as per G.O.Ms.No.23, dated 05-03-1999."

4. In view of the above said order of the Division Bench, the writ petition is disposed of directing the respondents not to collect the seigniorage charges on the ordinary earthwork, in the absence of a condition in the agreements entered into between the parties and in the absence of inclusion of seigniorage charges while assessing the cost of the work entrusted to the petitioner.

5. The writ petition is accordingly disposed of. No order as to costs.

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December 29, 2004

Kvr

To

1 The chief Engineer (R &B) Roads, Erramanzil, Hyderabad.
2 The Superintending Engineer R &B Circle, Seetammadhara Visakhapatnam.
3 The Pay & Accounts Officer YRC Wing, Maharanipet,Visakhapatnam-1.

4. 2 CCs to G.P. for Roads and Buildings, High Court Buildings, Hyderabad (OUT)

5. 2 C.D copies.